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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 SALVADOR MURRIETA-
12 ESCANUELA,

Plaintiff,

13 vs.

14 CITY OF CALEXICO; CALEXICO
15 POLICE OFFICER PETER WEST;
16 CALEXICO POLICE OFFICER ERIC
HACKETT; CALEXICO POLICE
CHIEF JIM NEUJAHR; and DOES 1-20,
inclusive,

17 Defendants.
18

CASE NO. 11cv753 WQH (PCL)

ORDER

HAYES, Judge:

19 On March 1, 2013, counsel for Plaintiff, Mary F. Prevost (“Prevost”), filed an Ex Parte
20 Motion to be Relieved as Counsel. (ECF No. 13). Prevost seeks to withdraw as counsel for
21 Plaintiff on the grounds that Plaintiff has failed to comply with the terms of his retainer
22 agreement, has made unreasonable demands upon Prevost, and has failed to communicate with
23 Prevost. *Id.* at 1-2. As a result, Prevost states that she has “been unable to prosecute this case,
24 [and] unable to respond in a timely manner to defense counsel’s discovery requests.” (ECF
25 No. 13-2 at 1). Attached to Prevost’s motion is a “Notice to Client,” advising Petitioner to
26 “SEEK LEGAL ADVICE REGARDING LEGAL REPRESENTATION IMMEDIATELY”
27 and inform the Court of any change in address or telephone number so that he can be reached
28 by the Court. *Id.*

1 An attorney may not withdraw as counsel except by leave of court. *Darby v. City of*
 2 *Torrance*, 810 F.Supp. 275, 276 (C.D. Cal. 1992). “The decision to grant or deny counsel’s
 3 motion to withdraw is committed to the discretion of the trial court.” *Irwin v. Mascott*, 2004
 4 U.S. Dist. LEXIS 28264 (N.D. Cal. December 1, 2004), *citing Washington v. Sherwin Real*
 5 *Estate, Inc.*, 694 F.2d 1081, 1087 (7th Cir. 1982). Among other things, courts ruling upon
 6 motions to withdraw as counsel have considered,

7 (1) the reasons why withdrawal is sought; (2) the prejudice withdrawal may
 8 cause to other litigants; (3) the harm withdrawal might cause to the
 9 administration of justice; and (4) the degree to which withdrawal will delay the
 10 resolution of the case.

11 *Irwin*, 2004 U.S. Dist. LEXIS 28264 at 4.

12 In the Southern District of California, Local Civil Rule 83.4 requires counsel to
 13 “comply with the standards of professional conduct required of members of the State Bar of
 14 California ... which are now adopted as standards of professional conduct of this court.” Local
 15 Civil Rule 83.4 also states that “[t]his specification will not be interpreted to be exhaustive of
 16 the standards of conduct,” and references the model rules of the American Bar Association
 17 (“ABA”).

18 California Rule of Professional Conduct 3-700 provides:

19 Rule 3-700 Termination of Employment

20 (A) In General.

21 (1) If permission for termination of employment is required by the rules of a
 22 tribunal, a member shall not withdraw from employment in a proceeding before
 23 that tribunal without its permission.

24 (2) A member shall not withdraw from employment until the member has taken
 25 reasonable steps to avoid reasonably foreseeable prejudice to the rights of the
 26 client, including giving due notice to the client, allowing time for employment
 27 of other counsel, complying with rule 3-700(D), and complying with applicable
 28 laws and rules....

(C) Permissive Withdrawal.

[If the mandatory withdrawal provisions of 3-700(B) are inapplicable,] a
 member may not request permission to withdraw in matters pending before a
 tribunal, and may not withdraw in other matters, unless such request or such
 withdrawal is because:

(1) The client

... (d) ... renders it unreasonably difficult for the member to carry out the
 employment effectively, or

... (f) breaches an agreement or obligation to the member as to expenses or

1 fees....

2 Rules Prof. Conduct, rule 3–700.

3 After reviewing the record and the reasons for withdrawal, the Court concludes that
4 there is good cause to grant the Ex Parte Motion to be Relieved as Counsel.

5 **CONCLUSION**

6 IT IS HEREBY ORDERED that the Ex Parte Motion to be Relieved as Counsel (ECF
7 No. 13) is GRANTED. Within thirty (30) days of the date of this Order, Plaintiff shall notify
8 the Court as to whether he will proceed pro se or retain new counsel.

9 In light of counsel’s withdrawal, the Court VACATES the current pretrial order and
10 pretrial conference dates of March 18, 2013 and March 25, 2013.

11 DATED: March 11, 2013

12 
13 **WILLIAM Q. HAYES**
14 United States District Judge